

## INSURANCE DIVISION[191]

## Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 505.8, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 20, “Property and Casualty Insurance Rate and Form Filing Procedures,” Iowa Administrative Code.

Chapter 20 establishes certain minimum standards and guidelines of conduct for filing insurance rates and forms and for the implementation of the Iowa Fair Plan Act. The proposed amendments are promulgated to clarify what information an insurance company regulated by the Division may provide its customer in connection with a commercial real estate transaction between the customer and a lender. The Division intends that these amendments will become effective on May 9, 2012.

Any interested person may make written suggestions or comments on these proposed amendments on or before April 24, 2012. Such written materials should be directed to Tom O’Meara, Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa; fax (515)281-3059; e-mail [tom.omeara@iid.iowa.gov](mailto:tom.omeara@iid.iowa.gov).

Also, there will be a public hearing on April 24, 2012, at 10 a.m. at the offices of the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa, at which time persons may present their views about the amendments either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Division and advise of specific needs.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement 2011 Iowa Code Supplement chapter 515.

The following amendments are proposed.

ITEM 1. Amend **191—Chapter 20**, title, as follows:

**PROPERTY AND CASUALTY INSURANCE RATE AND FORM FILING PROCEDURES**

ITEM 2. Reserve rules **191—20.61** to **191—20.69**.

ITEM 3. Amend **191—Chapter 20** by adopting the following new Division III:

DIVISION III  
CERTIFICATES OF INSURANCE FOR COMMERCIAL LENDING TRANSACTIONS

**191—20.70(515) Purpose.** The purpose of division III is to clarify what information an insurance company regulated by the division may provide its customer in connection with a commercial real estate transaction between the customer and a lender.

**191—20.71(515) Definitions.** For purposes of division III, the following definitions shall apply:

“*ACORD*” means the Association for Cooperative Operations Research and Development.

“*Commercial real estate transaction*” means a non-recourse commercial lending transaction in which the underlying property serves as the primary collateral securing the borrower’s repayment of the loan and neither the borrower nor any of its members, partners, or shareholders, nor any related person to any of the aforementioned persons, bears the economic risk of loss in the event of a payment default under the terms of the lending transaction.

“*Division*” means the insurance division.

“ISO” means the insurance services office.

**191—20.72(515) Evidence of insurance.**

**20.72(1)** Prior to the issuance of an insurance policy by an insurer, an insured who has entered into a commercial real estate transaction may request that the relevant insurer or a producer acting on behalf of the insurer provide the following items as evidence of insurance:

*a.* An ACORD Form 75, a successor ACORD form, an ISO binder form, or a substantially similar binder form approved by the division; and

*b.* An ACORD Form 28, a successor ACORD form, an ISO certificate form, or a substantially similar certificate of insurance form approved by the division.

The insurer or the producer acting on behalf of an insurer has the sole discretion to determine which division-approved binder form or certificate of insurance form the insurer or producer uses to comply with this rule.

**20.72(2)** An insurer or a producer acting on behalf of an insurer shall comply with a request made pursuant to this rule within 20 business days of the receipt of the request. The requirements of this rule shall not apply to an insurance producer who:

*a.* Is unauthorized to provide the documents described in this rule; and

*b.* Informs the insured of this fact within 20 business days of the receipt of the request.

**20.72(3)** Delivery of a binder along with a certificate of insurance requested pursuant to this rule may be accomplished by regular mail, overnight delivery, facsimile, physical delivery, electronic means, or other appropriate means.

**20.72(4)** Notwithstanding any language on a form provided pursuant to subrule 20.72(1) which language states that the form is for “information only,” a binder together with a certificate of insurance delivered pursuant to this rule shall be valid and may be relied upon by the borrower or by the borrower’s lender as evidence of insurance, including in any private civil action or administrative proceeding, until the delivery of the insurance policy to the borrower or the cancellation of the binder pursuant to Iowa Code sections 515.125 to 515.127.

**20.72(5)** An insurer or producer acting on behalf of an insurer that produces or delivers a binder and certificate of insurance to its customer pursuant to this rule may charge a reasonable fee for the production and delivery of the documents.

**20.72(6)** All insurers and all producers subject to this rule shall comply with the terms hereof within 90 days from [insert the effective date of this rule].

These rules are intended to implement 2011 Iowa Code Supplement chapter 515.